

### **REMARKS**

In the Action, claims 1-3, 7, 9, 11-13, 16, 17, 22, 24, 25 and 28-33 are rejected. Claims 10 and 26 are allowed. In response, claim 1 is amended to include the subject matter of claim 9, and claim 9 is cancelled. Claim 12 is amended to recite the addition of Vitamin E. Claims 12 and 22 are amended to obviate the rejection under 35 U.S.C. § 112. Claim 29 is also cancelled.

In view of these amendments and the following comments, reconsideration and allowance are requested.

#### **Rejection of Claims 1, 9 and 11**

Claims 1, 9 and 11 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2005/0158252 to Romanowski et al.

Romanowski et al. does not disclose or suggest to one of ordinary skill in the art the claimed oral composition comprising each of the recited components in the claimed amounts. Romanowski et al. is primarily directed to a composition containing Xylitol and an antimicrobial agent.

Romanowski et al. does not disclose an amount of each of the components disclosed in Romanowski et al. Romanowski et al. only discloses a list of possible components but provides no guidance to one skilled in the art to combine the components in the manner of the claimed invention. The existence of the individual components disclosed in Romanowski et al. does not render the claimed composition comprising a mixture of specific components obvious to one skilled in the art. The Examiner's random selection of components disclosed in Romanowski et al. does not lead one of ordinary skill in the art to the claimed invention.

Romanowski et al. clearly does not disclose the claimed amount of the extract of *Centipeda*, the claimed amount of coenzyme Q10, the claimed amount of aloe vera, the claimed amount of folic

acid or the claimed amount of Vitamin E. Romanowski et al. further fails to disclose a composition comprising a mixture of chlorophyll, peppermint oil, oregano oil, lavender oil, clove bud oil, eucalyptus oil, cinnamon bark oil, prickly ash bark extract, calendula extract, echinacea extract, chamomile extract, black walnut hull extract, grape fruit seed extract and green tea extract in an amount of 1 to 10% by weight based on the weight of the bioactive agent.

The large number of optional components disclosed in Romanowski et al. provide no suggestion or guidance to one skilled in the art to combine the components in the claimed manner. The broad general disclosure in Romanowski et al. according to the interpretation in the Action provides hundreds of combinations, although Romanowski et al. provides no guidance to combine the components in any particular manner.

The Action provides no basis or rationale for the position that it would have been obvious to randomly select and combine specific components from the broad list of components outlined in Romanowski et al. and then assemble the components in the manner of the claimed invention. The rejection is clearly based on hindsight with no rationale or reasoning. Rejections on obviousness cannot be sustained by mere conclusory statements. There must be some articulated reasoning with some rational underpinning to support the assertion in the Action.

The specific combination of components in the claimed invention exhibit a particular function and provide a specific property to inhibit inflammation. Each of the components in the amounts provide a specific function which when combined, provide a result that is not exhibited or suggested by the composition of Romanowski et al. Moreover, Romanowski et al. provides no suggestion that such a composition can be obtained. The enhanced performance of the claimed composition is obtained by the specific combination as claimed.

In view of the above comments, claims 1 and 11 are allowable over Romanowski et al.

**Rejection of Claims 1-3, 7, 9, 11-13, 16, 17, 22, 24, 25 and 28-33**

Claims 1-3, 7, 9, 11-13, 16, 17, 22, 24, 25 and 28-33 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2002/0044977 to Close in view of the article by Harrison and U.S. Patent No. 5,741,138 to Rice et al.

As noted in the previous response, Close does not disclose or suggest a holistic extract of *Centipeda cunninghami* as defined in the specification and as recited in claim 1. Close provides no suggestion to one skilled in the art of a composition containing the claimed holistic extract of *Centipeda* in combination with the coenzyme Q10, aloe vera, folic acid, Vitamin E, gota kola, biosaponin, thyme oil and olive leaf oil as in the claimed invention. Harrison and Rice et al. disclose various plant components, but provide no suggestion to one skilled in the art to combine the components in the manner of the claimed invention. The Action randomly selects various components from each of the references and suggests that the combination would have been obvious. The Action clearly provides no rationale or articulated reasoning for one skilled in the art to combine the components in the claimed manner.

The claimed invention is not a random selection of components, but rather a combination based on experimentation to provide anti-inflammatory properties for treating oral tissue. The claimed invention includes a specific combination of components and amounts of the components to provide a moisturizing feel to the mouth while being effective in inhibiting inflammation and inhibiting the growth of oral bacteria. In contrast, the compositions disclosed in Close, Harrison and Rice et al. typically exhibit an astringent or dry feeling to the mouth. One skilled in the art would not be motivated to select the components of Close, Harrison and Rice et al. in the random manner suggested in the Action. Moreover, one skilled in the art would have no reasonable expectation of

success in inhibiting the growth of oral bacteria and inhibiting inflammation of oral tissue of the claimed composition based on the disclosures of Close, Harrison and Rice et al.

Independent claims 1, 12 and 22 are amended in a manner to include each of the claimed components of allowable claim 10. The combination of the cited patents provide no suggestion to one skilled in the art to combine each of the claimed components in the claimed amounts.

Accordingly, the claims are submitted as being allowable over the art of record.

In view of these amendments and the above comments, the claims are submitted to be in condition for allowance. Accordingly, reconsideration and allowance are requested.

Respectfully submitted,



Garrett V. Davis  
Reg. No. 32,023

Roylance, Abrams, Berdo & Goodman, L.L.P.  
1300 19<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20036-1649  
(202) 659-9076

Dated: Oct 28 2009